

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 100 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MACHHARABHAI TERSINGBHAI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR MR ANAND, PP with MR ND GOHIL, APP for
Respondents

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 03/02/97

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. M.R.
Anand, Ld. P.P. with Mr. N.D. Gohil, Ld. A.P.P. for
the respondents.

2. Heard. On going through the papers with regard
to adverse police opinion it appears that there are

statements of the concerned witnesses on the complainant side. The report indicates that the petitioner's jail conduct is good. The petitioner is also reported to have enjoyed bail during the trial and during such period no untoward incident is stated to have occurred. While rejecting the furlough the concerned Authority ought to have considered this fact and might have applied its mind with regard to imposition of appropriate conditions so as to secure the peaceful enjoyment of furlough by the petitioner without affecting the public peace or tranquillity in the concerned area where the witnesses of the complainant party are residing.

3. In the facts of the case, therefore, the impugned order rejecting the first furlough available to the petitioner is hereby set aside and the concerned Authority of the respondent is directed to reconsider the petitioner's furlough on appropriate conditions so as to see that the petitioner while enjoying the furlough does not violate public peace or tranquillity in the concerned area.

The decision shall be taken in accordance with law in the light of what is stated hereinabove within a period of two weeks from the date of receipt of this direction.

Rule made absolute in the aforesaid terms.

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